

April 7, 2003

Ms. Rebecca Kane  
**Environmental Protection Agency**  
Office of Enforcement and Compliance Assurance  
MC2222A  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**RE: Comments on EPA's Enforcement and Compliance History Online (ECHO)**

Dear Ms. Kane:

Conectiv Energy Holding Company (Conectiv), through its subsidiaries, owns and operates power generation facilities in Delaware, Maryland, New Jersey, Pennsylvania, and Virginia. The Environmental Protection Agency, Office of Enforcement and Compliance Assurance (EPA) launched Enforcement and Compliance History Online (ECHO), a pilot information tool providing industry and the public access to current and historical compliance records of United States (US) facilities, including Conectiv facilities, on November 18, 2002. Conectiv understands that EPA is soliciting comments on ECHO (i.e., those pertaining to data accuracy as well as suggestions and comments for improvement) and as such is submitting this letter to EPA with comments on EPA's ECHO.

1. The inclusion of demographic and mapping data in the ECHO system should carefully be evaluated. As the owner and operator of power generation facilities, including those that fall under the Clean Air Act (CAA) 112r Risk Management Program (RMP), Conectiv is concerned with the security implications of including such specific mapping and demographic details. Mapping details specify facility location, air release points, Superfund sites, water discharges, toxic releases, and hazardous waste haulers. Demographic information including population density, total persons, households, etc. is also provided. While Conectiv understands that it may be possible through additional effort to obtain and compile comparable data; providing a "one-stop" location for such data is not in anyone's best interest based on recent world events, and represents an unnecessary risk that is not outweighed by the benefit provided.

Conectiv is currently under a "High" security alert, which means a "Credible threat to electric/gas or other infrastructure. This condition also may result from a specific response being prescribed by governmental and/or regulatory agencies." The security alert system Conectiv employs, which was adopted by most US gas and electric utilities, was developed in conjunction with the Edison Electric Institute, the North American Electric Reliability Council and the American Gas Association. As part of the security alert Conectiv is taking specific measures to respond to the increased risk, including:

- coordinating with law enforcement, emergency management agencies, regulators and major customers to make them aware of our preparedness and to assess the impact of the heightened security measures on Conectiv;
- randomly checking the undercarriages of vehicles entering its property;
- having Conectiv personnel escort fuel trucks making deliveries on the premises; and,
- postponing non-critical tours and visits.

The inclusion of data extraneous to evaluating enforcement and compliance compromises the security efforts of Conectiv, the communities it operates in, US industry, and the nation. Reasonable and sufficient enforcement and compliance data is available through the ECHO site without the inclusion of demographic and mapping specifics. Conectiv believes ECHO is a valuable tool to the public, including our neighboring communities, but questions the additional risk to these communities associated with the inclusion of the demographic and mapping functions.

1. Conectiv is aware that any user of ECHO can comment if errors are suspected in ECHO through the use of the “data error” function. Users noticing data errors on the Detailed Facility Reports can send a notification directly from the ECHO Web site. While Conectiv can appreciate this function and will use the function to report errors specific to our facilities, Conectiv inquires as to the process for reviewing these submittals for accuracy. What is the mechanism to ensure faulty data does not make its way into ECHO? Additionally, what are the protections against flooding the agency with dubious data error requests?
2. Conectiv understands that data will be updated in the ECHO database on a monthly basis. To a regulated entity, it is imperative that data be correct. Public perception can greatly impact a regulated entity’s environmental reputation, existing and potential customer base, ability to attract quality employees, community group involvement, ability to secure new permits, financing, etc. As such, Conectiv suggests a “review period” in which the regulated entity is provided data that is to be added to, modified or removed from the facility ECHO report. This review period would serve as a final check prior to posting the update to the ECHO website. A designated review period and facility contact could be established to streamline review time.
3. ECHO utilizes a “Compliance Summary Data and Two Year By Quarter” function. While the function allows the user to view more than just a “snapshot” of facility compliance, basing quarterly compliance status on a penalty resolution date is not representative of the facility compliance status. For example, a company may take a corrective action and return to compliance within a particular quarter, however, negotiations of the penalty associated with the non-compliance often takes many quarters to resolve and is often dependent on the regulatory agency backlog. Conectiv suggests use of the date that compliance is achieved instead of the date of the penalty settlement.
4. Under Enforcement Actions, Conectiv suggests use of the “Penalty Description” field. Use of the description field can designate between administrative issues (i.e., such as late submittal of a report) which do not pose an environmental threat and emissions limit exceedances, which have the potential to impact the environment. Conectiv suggests the use

of a standard table of descriptions to be used uniformly in ECHO, with inclusion in the data dictionary or under the Enforcement Actions table. Under "Type of Action," Conectiv recommends defining the various types of actions. Currently, actions are listed but not defined and can be misleading or confusing, even to the regulated entity. For example, "State Administrative Order Issued" could be interpreted to mean various actions, including a formal state agency issued "Administrative Consent Order."

5. Conectiv questions the inclusion of demographic information in ECHO. The intent of ECHO is to provide access to compliance and enforcement information of EPA regulated facilities. ECHO's function is to allow users access to permit, inspection, violation, enforcement action and penalty action data on a current and historical basis. While the demographic information is valuable, and merits inclusion in other EPA efforts, in the context of ECHO it adds cost and complexity to the detailed facility report, as well as a security risk, while not enhancing the compliance and enforcement features of ECHO, and not supporting the true intent of ECHO.
6. Conectiv has reviewed the ECHO database and compared the findings to state specific enforcement/compliance databases (i.e., New Jersey's Open Public Records Act, etc.). Conectiv would like to point out discrepancies between the databases in Enforcement Actions, for example. Specifically, actions superseded by settlement agreements are not necessarily noted in ECHO. Similarly, dates of enforcement action differ amongst ECHO and the state databases, making comparison of the same enforcement actions difficult. These are just two examples of many differences between ECHO and the state databases. While Conectiv understands that each database has been developed independently and certain differences will always exist, Conectiv suggests a quality assurance check of ECHO and the appropriate state database to correct true discrepancies.

Conectiv appreciates the opportunity to comment on EPA's ECHO. Should you have any questions based on these comments, please contact me at 302-451-5077.

Sincerely,

M. Gary Helm  
Environmental Consultant  
Conectiv

Conectiv  
P.O. Box 6066  
Newark, DE 19714-6066